

MASTER SERVICES AGREEMENT

V2.0 09/08/2021

This **Master Services Agreement** and attached **Cybersecurity Addendum** (this “Agreement”) is made between a business entity defined in a Statement of Work that references this Agreement (“Company”) and Forthright Technology Partners, a Florida corporation with offices at 3122 Commerce Parkway, Miramar FL 33025 (“Consultant”). Both Company and Consultant shall be referred to individually in the Agreement as “party” and collectively as the “parties”.

In consideration of the mutual promises contained herein, and intending to be legally bound, the parties agree as follows:

DEFINITIONS

- a. *Deliverable* means the tangible work product resulting from Consultant’s performance of Professional Services that is specified in an SOW to be provided to Company.
- b. *Hardware* means computer and related devices and equipment, related documentation, accessories, parts, and upgrades.
- c. *Services* means consulting, integration, or technical services performed by Consultant under an SOW. Services excludes Hardware maintenance and repair, Software maintenance, and or education services.
- d. *Software* means machine-readable instructions and data (and copies thereof) and related updates and upgrades, licensed materials, user documentation, user manuals, and operating procedures.
- e. *SOW (Statement of Work)* means any document executed by both parties that describes the Services to be performed by Consultant.

1. Services.

(a) Consultant will provide to Company, the Services and Deliverables set forth in separate SOW’s executed by the parties from time to time. Each SOW shall (i) upon execution be incorporated into the Agreement; (ii) reference the Agreement via a version number and date located in the title and the footer of Agreement; (iii) describe in sufficient detail all of the Services and Deliverables that Consultant is required to perform or provide to Company; (iv) describe the aggregate fees for the Services and Deliverables being provided; and (v) be subject to all of the terms and conditions provided herein.

(b) When required by Company, the parties will in good faith negotiate additions or changes to services or amend the description of the services or deliverables in a SOW. The Change Request Management Form can be located at www.Forthright.com/CRMF and shall be used for all changes, additions or amendments to the terms or conditions of an executed Project Schedule that fall within the scope of the Change Request Management Form, and such changes additions or amendments will take effect only upon mutual written agreement by the parties.

Each SOW will designate Company’s representative or Company’s representative role (example: Company’s Project Manager) that is authorized to approve and execute Change Request Management Forms. Change Request Management Forms will require the signature of Company’s representative in order to be accepted and processed by Consultant.

(c) Each party will appoint an individual for each project who will serve as their primary representative (“Project Representative”). The Company Project Representative will be available when Consultant’s personnel are at Company’s premises or, alternatively, will designate another representative with the

same level of authority and project knowledge in the event of the Project Representative unavailability. Either party may change its Project Representative at any time upon written notice to the other party. Each Project Representative will:

- have overall responsibility for managing and coordinating the performance of the party it represents in a reasonably commercial manner; and
- meet with the other party's Project Representative at regular intervals to review progress and resolve any issues relating to the Professional Services
- receive all communications, written, verbal, or electronic as specified in this Agreement. The delivery of any such said communications to the other party's Project Representative and or the party defined in the Notices section of this Agreement, will meet this Agreement's or any SOW's, as appropriate, requirement for providing such notice.

2. **Fees.**

(a) In consideration of the Consultant providing the Services and Deliverables Company will pay Consultant the fees described in the applicable SOW related to the Services. All stated Hourly Rates are exclusive of all taxes, fees and duties. Company shall pay any taxes related to Services and Deliverables purchased pursuant to this Agreement, or Company shall present an exemption certificate acceptable to the taxing authorities.

(b) **Expenses.** Company will reimburse Consultant for reasonable expenses of travel, lodging, daily meals, and other necessary and reasonable business expenses incurred by Consultant in the performance of the Services, provided that such expenses are authorized by Company in advance and are supported by original receipts or other legitimate documentation.

(c) **Invoice Schedule and Payment Terms.** Invoice schedule and payment terms will be set forth in the SOW. In the event that Company delays or postpones an SOW based on Milestone billing for more than fifteen (15) calendar days, Consultant may invoice the percentage complete of the milestone(s) currently being worked on.

3. **Acceptance.** All Service and Deliverables are subject to acceptance by Company in accordance with the acceptance criteria set forth in the applicable SOW. Notwithstanding such criteria, Company shall, under all circumstances, have a reasonable period of time after completion of the Services or receipt of the Deliverables to inspect and test the Services and Deliverable as appropriate to ensure that the Service and Deliverables (i) conform to the specifications set forth in the SOW, (ii) have been successfully implemented, and (iii) are satisfactory to Company in all respects. Company shall provide Consultant with a written notice of any deficiencies discovered in Company's inspection and testing, and Consultant will use its best efforts to promptly remedy all identified deficiencies.

4. **Term and Termination.**

(a) **Termination for Convenience.** Either party may terminate the relevant SOW to which these Terms are attached, or these Terms, for convenience upon thirty (30) days prior written notice to the other party, unless otherwise prohibited by these Terms or SOW.

(b) **Termination for Cause.** Either party may terminate the applicable SOW to which these Terms are attached, or these Terms, for cause upon written notice to the other party if: (1) the breaching party fails to comply with these Terms of this Agreement or applicable SOW, or (ii) the breaching party fails to cure the matter causing the breach within thirty (30) days after being notified, in writing, of the nature of the breach.

Consultant may suspend performance under the SOW without notice if Company fails to timely pay undisputed fees or other amounts due under the SOW for two (2) consecutive invoices, or three (3) invoices during any six month interval.

(c) Bankruptcy/Default Payment Terms. If either party becomes insolvent, is unable to pay its debts when due, files for bankruptcy, is subject of involuntary bankruptcy, has a receiver appointed, or has its assets assigned, the other party may terminate the relevant SOW to which these Terms are attached without notice and may cancel any unfulfilled obligations. If Company's payment history with Consultant shows late payments, Consultant may change payment or credit terms.

(d) Effect of Termination. Upon termination of a SOW, Company will pay Consultant for all Professional Services previously rendered, Deliverables provided, and charges and expenses incurred by Consultant up through and including the date of termination, and Company will receive all work in progress for which Company has paid. In the event that Company has prepaid for services that have not been rendered, Consultant shall reimburse these prepayments unless otherwise specified in SOW.

(e) Effect of Termination of Licenses. Consultant may terminate Company's license in the Deliverables upon notice for failure to comply with these Terms. In the event of termination of Company's license, Company will immediately destroy or return to Consultant the affected Deliverables and all partial or complete copies thereof, or provide satisfactory evidence of their destruction to Consultant.

(f) Survival. Any provision in these Terms which by their nature extend beyond the termination or expiration will remain in effect until fulfilled and will apply to both parties' respective successors and permitted assigns including without limitation.

5. Duties and Manner of Performance.

(a) Consultant agrees that its duties and responsibilities will include (i) acknowledging that it has no authority to sign contracts or enter into any oral contracts on behalf of Company without the Company's specific written approval, (ii) at all times representing itself in a professional manner and in accordance with the terms of this Agreement; and (iii) at all times complying with any and all applicable laws and regulations, as well as any local Company facility security, access and other commercially feasible policies and procedures.

(b) Consultant shall determine, at its sole discretion, the manner and means by which the Services shall be performed and the location where the Services will be performed. Services sold as remote offerings or any service stipulated to be remotely provided will be provided, in its entirety, by Consultant in an offsite, remote fashion.

(c) Unless otherwise specified in SOW, Consultant shall perform services in a contiguous daily fashion following a schedule that has been submitted by Consultant and approved by both parties.

(d) In the event of a delay greater than 5 business days caused by Company, Consultant may pull resources allocated to relevant SOW and deploy them elsewhere as necessary. Consultant shall act reasonably under the circumstances to make these resources available to perform services under relevant SOW.

(e) Unless otherwise stated in the relevant SOW, technical support, product enhancements, or product licenses of any kind are not included in any engagement.

6. Confidential Information. "Confidential Information" means nonpublic information that either party ("Disclosing Party") makes available, or has previously made available, to the other ("Receiving Party") in

connection with this Agreement, as well as this Agreement itself. Confidential Information includes information pertaining to Disclosing Party's finances, marketing plans, business strategies, business plans, forecasts, employees, customers, vendors, contractors, software, technology and the terms of this Agreement. Unless otherwise set forth in this Agreement, the Receiving Party will take commercially reasonable means to secure the Confidential Information of the Disclosing Party, which will include procedures at least as stringent as those the Receiving Party uses to protect its own Confidential Information. Consultant will not use or disclose Company's Confidential Information, except as necessary under this Agreement or as otherwise agreed in writing. Confidential Information will not include information that: (i) has entered the public domain through no action or failure to act of the Receiving Party; (ii) prior to disclosure was already lawfully in the Receiving Party's possession without any obligation of confidentiality; (iii) subsequent to disclosure hereunder is obtained by the Receiving Party on a non-confidential basis from a third party who has the right to disclose such information to the Receiving Party; or (iv) is ordered to be or otherwise required to be disclosed by Receiving Party by a court of law or other governmental body; provided, however, that the Disclosing Party is notified of such order or requirement and given a reasonable opportunity to intervene. Upon expiration or earlier termination of this Agreement, or at any time upon reasonable written request, the Receiving Party will promptly return to the Disclosing Party all Confidential Information it has in its possession. These confidentiality obligations shall apply to each party, its employees, subcontractors and agents and shall survive the termination of this Agreement and any SOW covered by this Agreement.

7. Access to and Security of Network. To the extent expressly provided in the SOW and if required, Consultant shall be granted access to the Company information services environment, including Company's network, whether remote or on site, for the exclusive purpose of undertaking the transactions and Services provided for in the SOW. Consultant covenants and agrees that (i) neither Consultant nor any Consultant personnel will gain or attempt to gain access to Company information services functions or modalities other than to the extent necessary to render specific Services hereunder and (ii) Consultant will not allow any Consultant personnel to gain access to the Company network who does not reasonably require such access to the Company network in rendering Services. Consultant is responsible for protecting the authentication method of all Consultant personnel to the Company environment and network and preventing any misuse of the ID and access method provided by Company to Consultant. Consultant hereby agrees to terminate the access of Consultant personnel to Company's network promptly upon the conclusion of completion of such Consultant personnel's portion of the Services under SOW.

8. Intellectual Property.

(a) All copyrights, patents, trademarks, trade secrets, and any other intellectual property rights existing prior to the effective date of the relevant Transaction Document shall belong to the party that owned such rights immediately prior to the effective date.

(b) Forthright Intellectual Property ("Forthright IP") includes, without limitation, any ideas, inventions, know-how, designs, data, techniques, processes, or any other tangible or intangible material, created, produced or conceived by Forthright at any time. Company understands and agrees that any services, work product, or other deliverables developed by Forthright on behalf of Company ("Deliverables") may contain Forthright IP. Company further understands and agrees that, in the process of performing services for Company, Forthright may develop, design, or engineer processes, techniques, know-how, or other intellectual property that will be incorporated into Forthright IP and used in conjunction with other client engagements; however, such incorporations will not include any of Company's confidential information.

(c) Forthright IP shall be and remain the sole and exclusive property of Forthright, whether developed independently by Forthright, jointly with others, requested by Company, resulting from work done for Company, or otherwise. Forthright hereby grants to Company, upon full payment of fees as defined in relevant

SOW, a perpetual, irrevocable, non-exclusive, non-transferable, royalty-free, fully paid-up, worldwide right to use, reproduce, and prepare derivative works based upon any Forthright IP as incorporated into the Deliverables. However, in the event that third party Software is incorporated into any deliverable, Company will be subject to the license terms applicable to such Software.

9. Limitation of Liability.

(a) Notwithstanding anything to the contrary in this Agreement, neither party or its respective directors, officers, employees, representatives, agents, or subcontractors shall be liable in any action whatsoever in connection with this Agreement for any amount in excess of the amount actually paid by Company to Consultant hereunder (whether or not Company or Consultant has been advised of the possibility of other damages). With respect to any amounts owed by Consultant to Company, such liability shall be fully discharged by a reimbursement to Company of any payments received by Consultant hereunder. The foregoing does not in any way affect Company's obligation to pay the amounts due under the Agreement for Services rendered by Consultant to Company.

(b) IN NO EVENT SHALL EITHER PARTY OR ITS RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUBCONTRACTORS OR SHAREHOLDERS BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND WHATSOEVER, OR INTEREST THEREON, IN CONNECTION WITH THIS AGREEMENT, EVEN IF COMPANY OR CONSULTANT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, TO THE FULL EXTENT THOSE DAMAGES CAN BE DISCLAIMED UNDER THE LAW. THIS LIMITATION OF LIABILITY IS EXPRESSLY INTENDED TO APPLY TO ALL TYPES OF DAMAGES INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, LOSS OF BUSINESS OPPORTUNITY, LOSS OF BUSINESS INFORMATION (INCLUDING LOSS OR REPLACEMENT OF ANY DATA, MEMORY OR INFORMATION WHICH IS ALTERED OR DAMAGED), BUSINESS INTERRUPTION (WHETHER RESULTING FROM FAILURES OR DELAYS IN PERFORMANCE), ANY COMMERCIAL LOSS, CONSULTANT'S (OR ITS AGENTS' OR ITS SUBCONTRACTORS') NEGLIGENCE, OR OTHERWISE.

(c) BOTH PARTIES WAIVE THE RIGHT TO TRIAL BY JURY IN ANY LITIGATION ARISING FROM THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREUNDER.

(d) In the event of default by a party (the "Defaulting Party") and in the event the other party (the "Non-Defaulting Party") retains the services of an attorney or other consultant to effect the collection of any monies owed and the enforcement of the Non-Defaulting Party's rights hereunder, then the Defaulting Party agrees to pay all reasonable fees and costs incurred including, without limitation, reasonable attorneys' fees and reasonable related costs upon judgment.

10. Warranty.

(a) Consultant represents and warrants that:

(i) it will perform Services (a) diligently and in a good, workmanlike, timely and professional manner, (b) consistent with the highest industry standards and applicable laws and regulations, and (c) in strict compliance with the SOW;

(ii) the Deliverables will (a) perform in accordance with the specifications described in the SOW, (b) be new, of good quality, and (c) not knowingly contain any virus, trap door, worm or any other device that is injurious or damaging to any hardware or software used in conjunction with the Deliverables;

(iii) neither the performance of Services nor the use of any Deliverable will in any way violate or infringe upon any third-party rights, including rights regarding ownership, trade secrets, trademarks, copyright or patents;

(b) The warranties contained herein are in addition to any warranties set forth in an individual SOW or otherwise contained in Consultant's documentation.

(c) As to any software and or hardware manufactured by a third party and purchased by Company: (i) it is solely warranted by the manufacturer's product warranty, if any, which Consultant agrees to pass on to Company (ii) Consultant makes no warranty, express or implied, and all other warranties, including without limitation the warranties of merchantability and of fitness for a particular purpose are hereby disclaimed (iii) Consultant does not warrant that the software and hardware will run uninterrupted or error free, (iv) Company is solely responsible for the selection of the software and hardware to achieve its intended results and for the results actually obtained.

(d) Consultant does not warrant that the Deliverables will be error free or that they will be compatible with present or future products of Consultant or other vendors; provided, however, if Company purchases future deliverables, products or services through Consultant, Consultant will use commercially reasonable efforts to ensure compatibility.

(e) No other warranty, written or oral, is expressed or implied by Consultant or may be inferred from a course of dealing or usage of trade.

11. Indemnification. The parties agree to indemnify, defend and hold harmless the other party and their respective, directors, employees, agents and representatives (collectively "Indemnified Parties") against any actual or asserted losses, claims, damages, liabilities, obligations, penalties, judgments, awards, costs, expenses and disbursements ("Claims") arising out of or relating to (i) a party's breach of this Agreement, (ii) any negligent acts or omissions, recklessness or willful misconduct of a party or a party's Personnel; and/or (iii) the infringement of any content, materials or Deliverables provided or disclosed by a party to or for the other party upon any patent, copyright, trademark or other intellectual property right of any third party.

12. Non-solicitation. Both parties agree that they will not, during the term of this Agreement or any renewals, and for a period of one (1) year thereafter, directly or indirectly, through any manner or means, recruit, hire, engage or attempt to recruit, hire or engage, discuss employment with, enter into or attempt to enter into a business relationship with, or otherwise utilize services in any capacity of any person who is a consultant, independent contractor, subcontractor, agent or employee (collectively "current employee") or former employee of the other party. In the event of a breach by either party, the breaching party shall, within ten (10) business days of such breach, pay the non-breaching party damages in an amount equal to fifty percent (50%) of the total compensation paid to such current employee or former employee in the last twelve (12) months of his or her employment by the non-breaching party.

Notwithstanding the above, either party may give the other party explicit written authority to pursue a specific individual for an employment, contract or business relationship otherwise prohibited by this Section. In the event that such express authority is given, the damages specified in this Section shall not apply to the specified individual.

13. Subcontracting.

(a) Consultant may subcontract any portion of the Services to be performed by it under this Agreement. Subcontractors will hold all required certifications as set forth in this Agreement, the applicable SOW

and/or applicable specifications. Notwithstanding the foregoing, Consultant shall remain fully responsible for the products and Services contracted for hereunder and shall be liable for any failure by any subcontractors or third party (or personnel of either) to perform in accordance with the terms of this Agreement or to comply with the duties and obligations of Consultant to the same extent as if such failure to perform or comply was committed by Consultant or any Consultant employee.

(b) By an appropriate written agreement, Consultant shall require each subcontractor, to the extent of the portion of the Services to be performed by such subcontractor, to be bound to Consultant by the terms of this Agreement, and to assume toward Consultant all the obligations and responsibilities which Consultant, by this Agreement, assumes toward Company, including without limitation, insurance requirements, termination provisions, indemnity provisions and warranty provisions.

14. Miscellaneous.

(a) **Notices.** All notices required or permitted to be given hereunder will be deemed to be properly given if delivered in writing personally, by facsimile or e-mail, or sent by United States certified or registered mail, or sent by private overnight delivery service and by United States first class mail, addressed to Consultant or Company, as the case may be, at the addresses set forth in this Section and or relevant SOW (or such other addresses as may hereafter be designated in writing), with postage thereon fully prepaid. Notice will be effective upon receipt.

In the case of Consultant:
Forthright Technology Partners, Inc.
3122 Commerce Parkway
Miramar, Florida 33025

In the case of Company:
As defined in SOW

Attn: Legal Department
GeneralCounsel@Forthright.com

(b) **Governing Law.** The law of the State of Florida will govern this Agreement without reference to its conflicts of laws principles. Any proceeding of any type arising out of this Agreement will be heard solely in the state courts of Broward County, Florida or the United States District Court for the Southern District of Florida.

(c) **Relationship.** The relationship among the parties is and will be that of independent contractors. Nothing in this Agreement will create any association, partnership, joint venture or employer-employee relationship between the parties. Neither party will hold itself out as an agent or employee of the other party nor make any statements, representations, warranties or commitments of any kind, or take any action that will be binding on the other party. Consultant personnel will not be Company's employees for any purpose.

(d) **Severability.** If any provision of this Agreement is contrary to law, the remaining provisions will remain in effect.

(e) **Successors and Assigns.** This Agreement will be binding upon and benefit the permitted successors and assigns of the parties.

(f) **Waiver.** No provision of this Agreement will be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented.

(g) **Entire Agreement; Modification.** This Agreement, including all SOWs and schedules, constitutes the exclusive, entire and completely integrated agreement between the parties concerning its subject

matter. It supersedes any proposal or prior agreement, oral or written, and any other communication. The parties agree that course of dealing and trade usage will not modify any provision of this Agreement. Any changes to or waivers of the provisions of this Agreement and/or any applicable SOW's must be made in writing and signed by the parties thereto.

(h) **Survival.** The representations and warranties under and provisions of this Agreement which, by their terms and context show the parties intended them to survive the termination of this Agreement for any reason, including provisions governing confidentiality, ownership, indemnification and liability, shall survive the expiration or earlier termination of this Agreement.

(i) **Interpretation.** In the event of conflict between the terms and conditions set forth in this Agreement and those set forth in any SOW or any other Exhibits or Schedules attached to this Agreement, the following order of precedence shall apply (with the main body of each document prevailing over any attachments thereto): (i) the SOW; (ii) other Exhibits, Schedules, or Addendums attached to this Agreement (iii) this Agreement.

(j) **Force Majeure.** Neither party will be deemed to be in default hereunder, or will be liable to the other, for failure to perform any of its non-monetary obligations under these Terms for any period and to the extent that such failure results from any circumstance beyond that party's reasonable control, and which it could not have prevented by reasonable precautions or reasonable efforts provided that the exercise of such reasonable precautions or reasonable efforts will not require the incurrence of any additional cost or expense.

(k) **Assignment.** Neither party may assign, delegate, or otherwise transfer all or any part of its rights or obligations under these Terms without prior written consent from the other party. Any such attempted assignment, delegation, or transfer will be null and void. Notwithstanding the foregoing, either party may assign these Terms and any SOW to an acquirer of all or substantially all of its stock or assets.

(l) **Compliance with Laws.** Company will identify and make the interpretation of any applicable federal, state, and local laws, regulations, and statutes and ensure that deliverables of the project meet those requirements.

(m) **Dependencies.** Each party will comply with the general obligations specified in this Agreement together with any specific obligations described in the relevant SOW's in a timely manner. Company acknowledges that Consultant's ability to deliver the Services is dependent upon (i) Company's full and timely cooperation with Consultant, (ii) the provisioning of access to the resources required for Consultant to provide Services, as well as (iii) the accuracy and completeness of any information and data Company provides Consultant.

(n) **Authorization to Install Software.** During the provision of services defined in SOW, Consultant may be required to install Company owned copies of third-party software. Installation of software requires the acceptance of license terms that accompanies such Software ("Shrink-Wrap Terms"). Company authorizes Consultant to accept such terms on behalf of Company. Shrink-Wrap Terms may be in electronic format, embedded in the Software, or contained within the Software documentation. Company hereby acknowledges that it is Company's responsibility to review Shrink-Wrap Terms at the time of installation and to ensure compliance to the terms of such license.

(o) Company is solely responsible for the actual content of any of its data files, selection, and implementation of controls on access and use to Company's data, as well as security and backup of Company's stored data. During the course of an SOW, Consultant may create and or acquire documentation and data pertaining to the systems and or services provided by the SOW. At the conclusion of an SOW, Consultant will provide Company with a copy of and irrevocably destroy any Company project documentation, Company system documentation, and or Company data that Consultant's has in their possession.

(p) **Similar Services.** Nothing in these Terms will prohibit Forthright from providing Professional Services similar to those provided hereunder to other clients.

(q) **Right of Return.** All purchases of Hardware/Software are governed by the return policies of their respective manufacturer or distributor, returns and or cancellations are only allowed if approved by the manufacturer/distributor.

(r) **Execution.** A digital copy of the signature of either party on the SOW that references this Agreement by the version number and date located in the title and footer of Agreement shall be deemed an original signature for all purposes including the acceptance of this Agreement and Cybersecurity Addendum.

CYBERSECURITY ADDENDUM

Any and all services (“Services”) provided by Forthright under this MSA are provided with the following stipulations:

1. “Cyberattack” is defined as any attempt to illegally access, exploit, compromise, steal, damage, or render unusable Customer’s computer systems, network, applications, software, or data, whether by a third party or authorized user.
2. Forthright will provide the Services in a workmanlike manner in conformity with generally prevailing industry standards. However, Company understands and agrees that it is impossible to eliminate the risk of cyberattack, and that Company may experience a cyberattack despite Forthright’s best effort in providing the Services.
3. Company understands and agrees that Company is solely responsible for implementing, maintaining, executing, and enforcing appropriate internal policies and procedures to reduce the risk of cyberattack. Company further understands and agrees that Forthright cannot be responsible for the actions, deliberate or otherwise, of Company’s employees, contractors, customers, business partners, vendors, or any other person or entity not employed or subcontracted by Forthright.
4. Company understands and agrees that, if a cyberattack occurs, malware may remain in Company’s environment despite Forthright’s best efforts to remove it, or that the attackers may have opened a “back door” to Company’s systems, network, or applications that will allow for another attack.
5. Company understands and agrees that if Company’s systems and data are compromised in a cyberattack, Forthright may not be able to recover such systems and data, in whole or in part, even if Company has a backup.
6. IN THE EVENT OF A CYBERATTACK OR SECURITY BREACH, FORTHRIGHT WILL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, LOST PROFITS OR REVENUE, LOSS OF USE OF EQUIPMENT, LOST DATA, COST OF SUBSTITUTE EQUIPMENT, SERVICES, DOWNTIME, OR CLAIMS OF CUSTOMER FOR SUCH DAMAGES, WHETHER THE CLAIMS BE IN CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE, OR OTHERWISE, EVEN IF FORTHRIGHT HAD BEEN ADVISED OF SUCH POTENTIAL DAMAGES. FORTHRIGHT WILL NOT HAVE ANY LIABILITY FOR DAMAGES, MONETARY OR OTHERWISE, BY CUSTOMER, OR ANY OTHER AFFECTED PARTY, IN THE EVENT OF A SECURITY BREACH OR SECURITY-RELATED OUTAGES, DAMAGES, LOSSES, ETC. CUSTOMER SHALL SAVE AND HOLD HARMLESS FORTHRIGHT FROM ANY SUCH CLAIMS. THE PARTIES AGREE AND ACKNOWLEDGE AS A MATERIAL TERM OF THIS AGREEMENT THAT THE TOTAL LIABILITY OF FORTHRIGHT FOR CLAIMS RELATED TO CYBERATTACK OR SECURITY BREACHES ARISING AS A RESULT OF OR RELATED DIRECTLY OR INDIRECTLY TO THIS AGREEMENT OR THE SERVICES PROVIDED HEREUNDER, OR TO ANY ACT OR OMISSION OF FORTHRIGHT, WHETHER IN CONTRACT, TORT, OR OTHERWISE, WILL NOT EXCEED AN AMOUNT EQUAL TO THAT ACTUALLY PAID BY CUSTOMER TO FORTHRIGHT IN THE 3 MONTHS PRECEDING THE CLAIM.
7. Customer agrees to indemnify, defend, and hold harmless Forthright from and against all claims, demands, liabilities, damages, losses, expenses, including attorney’s fees and costs, which may be asserted against or incurred by Forthright or due to any person not a party to this Agreement for any expense, loss, or damage arising out of the a Cyberattack or Security Breach that may arise during or after the performance of the Services, whether in contract, tort, or equity.
8. Notwithstanding anything contained herein to the contrary, this Section shall not apply to claims for loss or damage caused directly and solely by the gross negligence or willful misconduct of an employee or subcontractor of Forthright, provided, however, that any damages or liabilities due under this exception shall be limited to the amount of any proceeds received from Forthright’s insurance policies then in force and applicable to the claim or action.

No other terms or conditions of the MSA or any related contract or amendment shall be negated or changed as a result of this Cybersecurity Agreement.